SINGAPORE REPORTS

WO YOK LING v. PUBLIC PROSECUTOR

[C.C.A. (Wee Chong Jin C.J., Chua and D'Cotta JJ.) September 13, 1978]

[Singapore — Criminal Appeal No. 14 of 1977]

Penal Code, s. 300 — Murder — Grave and sudden provocation — Whether act reasonably commensurate with provocation offered.

This was an appeal from the conviction of the appellant on a charge of murder of his wife. The trial judges had rejected the defence of grave and sudden provocation and found that the appellant was not speaking the truth when he said he lost his self-control as a result of the provocation that his wife had given him. They found that he had full control of himself when he attacked and killed his wife with a chopper.

Held, dismissing the appeal: (1) having regard to the findings of fact, which were amply justified on the evidence, the conviction for murder was inevitable;

(2) there could be no doubt in this case that the acts done by the appellant in consequence of the provocation, even if the appellant were to be believed, were not commensurate with the degree of provocation offered to him by his wife.

Case referred to:-

(1) *Attorney-General* v. *K.D.J. Perera* [1953] A.C. 200.

COURT OF CRIMINAL APPEAL.

Datuk David Marshall for the appellant.

Glenn J. Knight (Deputy Public Prosecutor) for the respondent.

Wee Chong Jin C.J. (delivering the judgment of the Court): The appellant, Wo Yok Ling, was convicted by the High Court for the murder of his wife. At the conclusion of the argument we dismissed his appeal against his conviction and we now proceed to give our reasons.

The only ground of appeal was that the trial judges erred in rejecting the defence of grave and sudden provocation having regard to all the evidence. The relevant facts are these.

The appellant, his wife and their two young sons lived in a Housing and Development Board flat rented by his brother-in-law. It was a two-room flat comprising a hall and a bedroom. At the rear of the flat is the kitchen with a bathroom and a toilet room adjoining it. Besides the appellant and his own family there were five persons living in the flat, the mother-in-law, her two sons and her other daughter and a granddaughter. The bedroom was partitioned into two by a curtain. The appellant and his wife slept in one of the partitioned portions and their two sons, the mother-in-law and the daughter slept in the other.

The appellant and his wife quarrelled frequently. One source of discontent was that the appellant wanted to move out but his wife preferred to remain because her mother could help to look after her young sons. They had in fact moved out on many occasions but each time they returned to live in the flat.

On the morning of August 29, 1976 at about 10.00 a.m. the mother-in-law returned to the flat after her marketing. Her two young grandsons and her granddaughter were at home. Later that morning, the appellant and his wife returned to the flat and the wife sat on a chair by a table in the hall. The wife's mother was also sitting in the hall carrying the youngest grandson aged three with the older grandson standing near her. The appellant walked towards the kitchen and stood near the entrance to the kitchen. The wife then said to the appellant "if you want to move out you can move out alone". Thereupon the appellant walked towards his wife and hit her from behind on the neck with a chopper. The wife cried out in pain and fell on the floor. Her mother went forward to assist her. The appellant attacked her and hit her head with the chopper saying "you will have to die also". She tried to ward off the blow with her left hand and then she ran out of the flat. From outside the flat she looked in and saw the appellant repeatedly attacking his wife on the head with the chopper. She ran downstairs and near the Housing and Development Board Area Office she shouted for help.

A Mr. Tan Peng Gek, an officer of the Housing and Development Board, was at the Area Office. Earlier that morning he had seen the appellant and his wife getting out of a taxi in front of the Area Office. About 15 minutes later an old lady whose clothes were covered with blood entered the office shouting and in a hysterical state. He telephoned the police and asked them to send an ambulance. Before the police arrived the appellant came into the office, covered with blood and in an excited state and asked for water. When the police arrived the appellant walked out of the office in the direction of the police car. Later that morning Mr. Tan went to the flat and found the appellant's wife lying on the floor in a pool of blood. She was dead with multiple injuries. An autopsy revealed sixteen external injuries and multiple depressed comminuted fractures of the skull at the occipital region.

The appellant's defence at the trial was that three to four months earlier he had heard rumours that his wife was seen with another man at the King's Hotel and that on the 24th or 25th August he had seen his wife at the King's Hotel Coffee House being embraced by a man. At home that evening he asked her who the man was but she shouted at him not to interfere in her own affairs. He said he did not quarrel with her over what he saw as he was staying in her house. Two or three days later he again saw his wife by chance at about 9.00 p.m. coming out of a Plaza Singapura Coffee House with a man and saw them getting into a taxi. That evening at home they quarrelled because she refused to tell him who the man was and told him to mind his own business.

On the day before the killing his wife had told him she was going out the next day to see a friend and warned him not to follow her. However, he decided to trail her and so he left the flat early the next morning and he saw her board a taxi at about 9.00 a.m. He followed in another taxi which stopped at the President Building. As she got out of the taxi she saw him getting out of his taxi and they quarrelled momentarily. They then boarded a taxi and on their way back to the flat she told him that as he was unable to earn enough to support her she had every

right to go with whomever she liked and he could divorce her if he did not like it. He became very angry and after they entered the flat she again told him not to interfere with her and that she wanted a divorce.

His wife's mother also told him that his wife was no longer interested in him and that it was time for him to leave the flat. As he could not tolerate the situation any more he went to the kitchen and got hold of a chopper. He said he then lost his mind and slashed his wife on the head. He felt something hitting him from behind and turned round and also hit his mother-in-law with the chopper. After she had run out of the flat he struck his wife many times with the chopper after which he left the flat and dropped the chopper outside the flat entrance. He then tried to jump off the top floor of that block of flats but was prevented from doing so by an elderly man. He then went to the Area Office where he remained until the police arrived and took him into custody.

The trial judges rejected his defence of grave and sudden provocation and found that he had full control of himself and knew what he was doing when he attacked his wife with the chopper. They found that even if all the provocation he complained he had received from his wife were true, a reasonable man belonging to the same class of society as the appellant, placed under the same circumstances, who is so provoked would not lose his self-control and do the acts that he did.

The trial judges rejected his defence of grave and sudden provocation. They found that he was not speaking the truth when he said he had lost his self-control as a result of the provocation that he said his wife had given him. They found he had full control of himself when he attacked and killed his wife with a chopper. In our judgment, having regard to those findings of fact, which are amply justified on the evidence, the conviction for murder was inevitable.

During the argument we were asked to re-consider whether the law as to grave and sudden provocation as laid down by the Privy Council in the Ceylon (now Sri Lanka) case of *Attorney-General* v. *K.D.J. Perera*[1] should be followed having regard to recent decisions in other jurisdictions. We declined because we considered that case binding on us in that the provisions of section 294 of the then Ceylon Penal Code were identical with Exception 1 of section 300 of our Penal Code which reads as follows:—

"Exception 1. — Culpable homicide is not murder if the offender whilst deprived of the power of self-control by grave and sudden provocation,..."

In *Perera's case* the Privy Council described as quite impeccable the direction of the trial judge to the jury "that a defence of provocation could not succeed and the charge of murder could not therefore be reduced to culpable homicide not amounting to murder unless the action of the (accused) taken by him in consequence of the provocation was reasonably commensurate with the degree of provocation offered to him".

Applying the law as so stated there can be no doubt that the acts done by the appellant in consequence of the provocation, even if the appellant were to be believed, were not reasonably commensurate with the degree of provocation offered to him by his wife. Accordingly, we dismissed his appeal.

Appeal dismissed.

Solicitors: *David Marshall.*

COLLECTOR OF LAND REVENUE v. MANILAL & SONS (PTE.) LTD.

[C.A. (Wee Chong Jin C.J., Chua and D'Cotta JJ.) September 13, 1978]

[Singapore — Civil Appeal No. 33 of 1977]

Land Acquisition — Acquisition of warehouse property — Whether sales after relevant date could be taken into consideration by Appeals Board — Whether Appeals Board could take into consideration valuation by Commissioner of Estate Duties for estate duty purposes of comparable piece of property — Land Acquisition Act (Cap.272), s. 27(3).

This was an appeal from the decision of the Commissioner of Appeals, Choor Singh J. reported at [1977] 2 M.L.J. 100. It was argued on the appeal (a) that the Appeals Board should not have taken into consideration sales which took place after the relevant date, March 22, 1973, in arriving at the market value at the relevant date of the land acquired; (b) that the Appeals Board could not in law take into consideration in arriving at the market value of the land acquired a valuation by the Commissioner of Estate Duties for estate duty purposes of a comparable piece of property made after the relevant date.

Held, dismissing the appeal: the Commissioner of Appeals was correct in holding that the parties to the appeal were entitled to put before the Board any fresh evidence that might have come to light after the date of acquisition and which would assist the Board in determining the compensation to be paid to the landowner.

COURT OF APPEAL.

P. Selvadurai for the appellant.

Sachi Saurajen for the respondent.

Wee Chong Jin C.J. (delivering the judgment of the Court): Manilal & Sons (Private) Ltd., the respondent in this appeal, owned a warehouse, No. 22 Trafalgar Square, on land containing an area of 5,802 square feet and known as Lot 168[5] of T.S. 23. The warehouse is a single storey brick wall, tile roofed warehouse with a height of 17 feet. It is a solidly built warehouse, owner occupied and is an intermediate unit in a row of about ten other similar warehouses. It is within the "Warehouse" zone in the 1966 Master Plan and at all material times was used for warehousing purposes.

On March 22, 1973 the property was compulsorily acquired by virtue of a Gazette Notification published on that date. The Collector of Land Revenue held an enquiry on June 8, 1973. On October 22, 1973 the collector issued his award of $214,700 as compensation for the acquired property. This sum reflects a value of $37 per sq. ft. The respondent, being dissatisfied, gave Notice of Appeal on October 30, 1973. It took the collector almost one year after the Notice of Appeal to give his Grounds of Award. This seems to us to be inexcusable delay because no difficult issues had to be dealt with by him.